

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH

WEDNESDAY, THE 20TH JUNE 2007 / 30TH JYAISHTA 1929

OP.No. 31992 of 1999(H)

PETITIONER:

**M/S. DEVSHI BHANJI KHONA,
LICENCE NO. 13, CUSTOM HOUSE AGENTS,
SUBRAMONIAN ROAD, WILLINGDON ISLAND,
COCHIN – 682003, REP. BY ITS PARTNER,
MR. VIRESH KHONA.**

**BY ADV. SRI.JOSEPH KODIANTHARA
SRI.THOMAS VELLAPPALLY**

RESPONDENTS:

- 1. THE DEPUTY COMMISSIONER OF CUSTOMS,
(RR CELL), CUSTOM HOUSE, COCHIN 682 009.**
- 2. THE COMMISSIONER OF CUSTOMS,
CUSTOMS HOUSE, COCHIN – 682 009.**
- 3. THE COMMISSIONER (APPEALS)
OF CUSTOMS, CUSTOMS HOUSE,
COCHIN 682009.**
- 4. UNION OF INDIA,
THE MINISTRY OF FINANCE,
REP. BY THE UNDER SECRETARY,
MINISTRY OF FINANCE, NORTH BLOCK,
NEW DELHI.**

BY ADV. SRI. P.PARAMESWARAN NAIR, ASSISTANT.S.G

**THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD
ON 20/06/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

ORDER ON CMP NO. 54392/1999 IN OP NO. 31992/1999 H.

DISMISSED

20/06/2007.

SD/- KURIAN JOSEPH, JUDGE.

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1. COPY OF THE NOTICE DT. 2/11/84 FROM THE CUSTOMS DEPT TO M/S. MANOJ ENTERPRISES.

EXT.P2. COPY OF THE ORDER NO.S. 30/88/85-AP DT. 17/2/86 ISSUED M/S. MANOJ ENTERPRISES.

EXT.P3. COPY OF THE LETTER DT. 14/08/98 FROM THE ASST. COMMISSIONER OF CUSTOMS TO THE PETITIONER.

EXT.P4. COPY OF THE LETTER DT. 25/09/98 FROM THE ASST. COMMISSIONER OF CUSTOMS TO THE PETITIONER.

EXT.P5. COPY OF THE PETITIONER'S REPLY DT. 8/10/98 TO THE ASST. COMMISSIONER OF CUSTOMS.

EXT.P6. COPY OF THE LETTER DT. 14/5/99 OF THE APPRAISING OFFICER TO THE PETITIONER.

EXT.P7. COPY OF THE WRITTEN SUBMISSION DT. 15/09/99 OF THE PETITIONER TO THE DY. COMMISSIONER OF CUSTOMS.

EXT.P8. COPY OF THE ORDER DT. 22/10/99 OF THE DEPUTY COMMISSIONER OF CUSTOMS.

EXT.P9. COPY OF THE LETTER DT. 25/1/88 OF THE ASST. COLLECTOR OF CUSTOMS TO M/S. MANOJ ENTERPRISES.

True copy

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KURIAN JOSEPH J.

O.P. NO.31992 OF 1999

Dated 20th June, 2007.
J U D G M E N T

Petitioner is aggrieved by Ext.P8 order regarding levy of penalty for non-payment of duty. According to the petitioner, since the petitioner is only an agent and the liability is not that of agent, in view of the various decisions taken by the Customs, Excise and Gold (Control) Appellate Tribunal, the matter may be remitted to the second respondent for fresh consideration, in view also of the fact that the importer had already been proceeded against, as can be seen from Ext.P9. After having heard learned counsel for the petitioner, I am also of the view that the matter requires reconsideration by the second respondent. I quash Ext.P8 with a direction to the second respondent to consider the matter afresh with notice to the petitioner and the importer and pass appropriate orders thereon in accordance with law, advertent to the contentions taken by the petitioner, within four months from the date of receipt of a copy of the judgment.

The writ petition is disposed of as above.

KURIAN JOSEPH, JUDGE.

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KURIAN JOSEPH, J.

O.P. NO.31992 OF 1999 (H)

J U D G M E N T

Dated 20th June, 2007.